CASE SUMMARY

Complaint against the Housing Department for delay in handling an application for external transfer on medical grounds

The Complaint

The complainant is 69 years old. She lives with her four children in a public housing unit. As she has difficulty going up and down the stairs because of her degenerated knees, she wrote to the estate office on 17 April 1997 requesting for transfer to another housing estate on medical grounds. In August that year, the Housing Officer suggested her to consider broadening her choice of preferred districts for transfer and that it would take half to one year for her application to be processed. She alleged that she had waited for over a year and although numerous telephone enquiries were made, staff at the estate office and the Assistant Housing Manager could not give her a definite reply and they even hung up on her. She made another telephone enquiry on 19 June 1998 and the staff undertook to deliver an application form for 'special transfer' to her flat within a week. However, a week later, she still had not received the form. Hence she lodged a complaint with this Office.

Information provided by the Housing Department (HD)

2. According to the policy and procedures on external transfer, if tenants could not live in their present flats for health reasons, they might apply for transfer to another flat of similar size and type within the same estate or in another estate of the same type as long as they could give sufficient reasons and proof. When an application for transfer was received from the tenants, the estate staff would verify the information provided by the applicant at an interview and conduct home visits so as to assess whether the applicant had the need for transfer. They would then ask the applicant to fill in the application form for

'special transfer' which would be passed to the Lettings Unit of the Applications Division for follow-up action.

3. According to the HD, an initial reply could be issued to the applicant within 7 working days for normal application for transfer. After all the information had been verified, the application would be processed. This process would take about two months. If the applicant insisted on being transferred to an estate in which there were fewer vacant flats available or refused to consider estates other than those he had chosen, he would have to wait for a longer time for a transfer.

4. The complainant was asked by the estate staff at the end of May 1997 to provide medical certifications to support her application. As requested, she submitted in mid-June 1997 a medical certificate confirming that it was undesirable for her to go up and down the stairs and slopes because of her leg problem. Upon checking, the estate staff found that the complainant's present flat was on a floor with lifts and in a block which was accessible by vehicles. Logically, her health should not be affected. However, the complainant still insisted on applying for external transfer. Thus, in early August the same year, the estate staff requested the complainant to submit additional medical certification to sufficiently prove that she had a genuine need for transfer. At the end of August 1997, the complainant submitted a medical certificate confirming that in addition to the leg problem, her mental condition was not satisfactory. The doctor who signed the medical certificate also suggested that the HD should arrange for a transfer for the complainant in the light of her personal housing needs.

5. Morever, when examining this case, the Housing Manager found from the tenancy record that the complainant's four children were all over 35 and he suspected that they might have got married and moved out. He therefore instructed his staff to look into the occupancy position of the complainant's flat. A number of inquiries were conducted since October 1997. Not until 25 June 1998 did the estate staff arrange with the complainant to fill in the application form for 'special transfer' and prepare the declaration. During the interview on 31 July 1998, the Housing Manager told the complainant that her complaint had been investigated. He also apologized for having failed to process her application promptly and duly communicate with her, thus causing her anxiety. The complainant was satisfied with his explanation.

6. The HD admitted that the inquiry, which was not completed until June 1998, was protracted with some delay. However, when the Housing Manager became aware that there was little progress in the case, he had already urged his staff to proceed with their work promptly. He had also verbally warned them and briefed them on the need to review the procedures and methods of inquiry.

7. The HD pointed out that three offers had been made to the complainant on 5 and 27 August and 16 October 1998 respectively. However, the first two offers were rejected by the complainant on the grounds that the first flat was on the lower floor while the second one was near the garbage chamber. On the third offer, she cancelled the tenancy agreement and requested for allocation of a larger flat.

8. The Housing Manager had investigated the complainant's allegation that the estate staff had hung up on her. The findings revealed that on receipt of the complainant's telephone enquiry, the staff concerned had already told her briefly the progress of her case. It was probably because of the lack of due communication that the complainant misunderstood the estate staff and thought the latter had hung up on her. All along, the staff concerned had good performance records. In order to prevent public housing resources from being abused, they had to conduct a thorough inquiry when handling this case. Besides, it was at this time that the applicants under the Housing Subsidy Policy were required to submit declarations on their income. The staff concerned therefore had to cope with additional workload arising from the numerous income declaration forms. Also, being inexperienced in handling such cases as the complainant's, they had failed to immediately seek their supervisors' advice when they encountered difficulties, thus causing delay in the inquiry. Nevertheless, they had never intended to make things difficult for the complainant, nor to be rude to her.

Opinions and Conclusion

9. Having examined the information and files provided by the HD as well as the existing policy and procedures on handling normal transfer, this Office observes that in order to ascertain the occupancy position of the flat and ensure that housing resources will not be abused, the HD

should prudently look into the tenant's circumstances in accordance with the established policy and procedures. This is certainly beyond dispute. Nevertheless, according to the Department's Management Instruction Manual--Estate Management, a transfer case can be concluded within one to two months. In our view, the inquiry on the occupancy position of the complainant's flat, which took as long as 8 months to complete, should commence at an earlier time. Although the follow-up work on this case may be more complicated and time-consuming than that of ordinary cases and that there was a large number of income declaration forms which had to be processed at the same time, the HD should not use this to justify the unduly long time taken to conduct the inquiry. From the time of submission of the application for transfer to the time the first offer was made to the complainant, she had waited for 16 months already.

10. Besides, the complainant had made numerous telephone enquiries on the progress of her application. It is the duty of the staff concerned to explain to her the progress of her case and the relevant procedures. However, they failed to give her an appropriate reply. Nor did they speed up the working process, otherwise, the complainant might have felt less aggrieved and this complaint might have been avoided. As regards the complainant's allegation that she had been treated impolitely, the HD claimed that this was not supported by any evidence. As this is a 'one-against-one' situation, this Office considers that there is insufficient evidence to support the allegation.

11. Having considered all the above points, The Ombudsman considers that this complaint is **substantiated**. The Ombudsman expresses great concern that in the light of the complainant's urgent needs, the estate staff have failed to handle her case promptly in accordance with the service-oriented principle, nor have they followed up her case according to the advisory time schedule in the Management Instruction Manual--Estate Management. In order not to waste any public housing resources, The Ombudsman hopes that the HD will promptly make appropriate arrangements for the transfer and that the complainant should accept any reasonable offer .

Recommendations

12. The Ombudsman recommends that the Director of Housing should consider taking measures to enhance the monitoring of the progress of public housing tenants' applications for transfer and issue guidelines for the estate staff to follow, so as to improve the quality of service.

Response from the Director of Housing

13. The Director of Housing does not agree to our observation that 'the staff concerned had not ascertained the occupancy position of the flat before they submitted this application for external transfer in October to the Housing Manager for approval.' and the statement that 'Such a delay is unjustifiable.' The Department points out that the complainant did not submit the necessary documents until the end of August 1997 and it was until then that formal inquiry could commence. Thus, the time the complainant had waited for the first offer as stated in the investigation report should be revised to '12 months', instead of '16 months'. In this case, a number of offers had been made to the complainant. However, even though she had indicated acceptance of one of the offers, she later cancelled the tenancy agreement and requested for a larger flat. This indicates that she does not have an urgent need for transfer. The Department maintains that clear guidelines have been laid down in the Management Instruction Manual--Estate Management. It is inappropriate to set a time schedule for processing this kind of cases. The performance of the staff concerned may have been unsatisfactory but it is only an isolated case. The Department suggests that The Ombudsman should consider concluding this complaint as partially substantiated.

Final Remarks

14. This Office notes that the HD staff had made several home visits in August 1997 but they could not get in touch with the tenant and her family members. Without confirming the occupancy position of the flat, it is inappropriate for them to submit a report on this case to their supervisors for consideration. As a matter of fact, it was not until the Housing Manager instructed that an inquiry on the occupation position of the flat be conducted that the staff concerned proceeded with the inquiry. As for the observation that 'Such a delay is unjustifiable', it is

based on the fact that the Housing Officer had submitted the case file on 23 March 1998, but it was not until 19 June that year that the Assistant Housing Manager finished studying the file and instructed his staff to take follow-up action. There was indeed a delay.

15. The investigation report has not deviated from the facts. The complainant submitted her application for transfer on 17 April 1997 but it was not until 5 August 1998 that the first offer was made to her. Thus, she had really waited 16 months for an offer . Besides, the complainant has the right to reject a flat which she considers not suitable. This should not be taken to mean that she did not have an urgent need for the transfer. In any case, the HD should not delay in processing the complainant's application. It is the routine work of the estate offices to handle applications for transfer submitted by tenants. In order to avoid the recurrence of similar incidents in future, the HD has to consider taking measures to enhance the monitoring of the progress of transfer cases and issue some guidelines for the estate staff to follow.

16. Based on the above considerations, The Ombudsman is of the view that the conclusion and recommendations in the investigation report should remain unchanged. He hopes that the HD will follow up and implement the recommendations in the report as soon as possible.

Office of The Ombudsman
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